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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/537,877

06/07/2005

Gillian Antoinette Mimmagh-Kelleher

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01/30/2009

PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

SHAH, SAMIR M

ART UNIT

PAPER NUMBER

2856

MAIL DATE

DELIVERY MODE

01/30/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte GILLIAN ANTOINETTE MIMNAGH-KELLEHER,
PARASKEVAS DUNIAS,
JOANNES GREGORIUS BREMER,
ADRIANUS PETRUS JOHANNA MARIA ROMMERS,
AND WILHELMUS LAMBERTUS MARINUS CORNELIUS
VERHOEVEN

Application No. 10/537,877
Technology Center 2856

Mailed: January 30, 2009

Before DELORES LOWE, *Review Team Paralegal*
LOWE, *Review Team Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on December 10, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matters requiring attention prior to docketing.

APPEAL BRIEF, GROUNDS OF REJECTION

A review of the file finds that the grounds of rejection of the claims as provided in the Appeal Brief filed March 3, 2008 under the heading “Grounds of rejection to be reviewed on appeal” is unclear and/or is not consistent with the grounds of rejection of claims of record. The grounds of rejection of the claims as provided in the Appeal Brief must be consistent with the last Office action of record, including any Advisory action responsive to any after final submissions. Each Grounds of rejection to be reviewed on appeal must be identified.

A review of the last Office action, including any mailed Advisory Action(s) finds that claims **26-35** are rejected under 35 U.S.C. 103(a) as being unpatentable over Hutchings in view of **Nikolic**; whereas Appellants have either not indicated the grounds of rejection of these claims or has improperly listed these claims as **26** and **31** are unpatentable under 35 U.S.C. 103(a) over Hutchings in view of **Nicola**. Correction of the Grounds of rejection to be reviewed on appeal for all claims is required.

EXAMINER'S ANSWER, MISSING SIGNATURES

An appeal conference is mandatory in all cases in which an acceptable appeal brief has been filed and a determination to move forward on appeal has been made. The participants of the appeal conference should include (1) the examiner charged with preparation of the examiner's answer, (2) a supervisory patent examiner (SPE), and (3) another examiner, known as a conferee, having sufficient experience to be of assistance in the consideration of the merits of the issues on appeal. On the examiner's answer, below the primary examiner's signature, the word "Conferees:" should be included, followed by the typed or printed names of the other two appeal conference participants. These two appeal conference participants must place their initials next to their name. The answer must also include the signature of a TC Director or designee to indicate that he or she approves any new grounds of rejection, if presented.

A review of the file finds that the examiner's answer is missing either at least one typed/ printed name of the appeal conference participants and/or is missing at least one initial or signature to make the record clear the appeal conference was held in accordance with MPEP § 1207.01. Therefore, correction is required.

CONCLUSION

Accordingly, it is **ORDERED** that the application is returned to the Examiner:

- 1) to hold the Appeal Brief filed on March 3, 2008 defective;
- 2) notify Appellants to file a paper properly addressing the Grounds of rejection of all claims;
- 3) to obtain the necessary conferee signatures and/or TC Director signature (if necessary); and
- 4) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

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